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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,554	02/20/2004	Alfred Lee IV	MS1-1855US	7457
22801 7590 04/29/2008 LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201				
EXAMINER NGUYEN, DUSTIN				
ART UNIT 2154		PAPER NUMBER		
MAIL DATE 04/29/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/783,554

**Applicant(s)**

LEE ET AL.

**Examiner**

DUSTIN NGUYEN

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8500)  
Paper No(s)/Mail Date 02/20/04, 09/08/06, 12/13/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1 – 36 are presented for examination.

***Specification***

2. Please update the status of related application as mentioned in paragraph 0001 of the specification.

***Claim Objections***

2. Claims 2-12, 14-24, 26-34 and 36 objected to because of the following informalities:
  - I. As per claims 2-12, “A method” should be corrected as “The method”
  - II. As per claims 14-24, “A computer program product” should be corrected as “The computer program product”
  - III. As per claims 26-34 and 36, “A system” should be corrected as “The system”.

Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claim 13, Applicant's disclosure provides intrinsic evidence that "a computer program product" may be provided in a computer data signal embodied in a carrier wave, as such data signal and carrier wave are being considered as non-statutory, since it is not limited to that which falls within a statutory category of invention because it is not a process, machine, manufacture, nor a composition of matter [ Please see MPEP 2106 ].

As per claims 25 and 35, it would reasonably be interpreted by one of ordinary skill as a system of software per se, failing to fall within a statutory category of invention. Applicant's disclosure contains no explicit and deliberate definition for the term "retriever" and "generator", and in the context of the disclosure and claims in question, one of ordinary skill would reasonably interpret the "retriever" and "generator" as software applications. As such, the system of software alone is not a machine, and it is clearly not a process, manufacture nor composition of matter.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-33, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernhardt et al. [ US Patent Application No 2005/0053007 ], in view of Bradley et al. [ US Patent Application No 2008/0056500 ].

7. As per claim 1, Bernhardt discloses the invention as claimed including a method comprising:

retrieving an intermediate node policy characterizing communication properties supported by an intermediate node [ i.e. obtain traffic state information of intermediate node ] [ 102, Figure 3; Abstract; and paragraphs 0013 and 0027 ], the intermediate node being between a source node and a destination node in a communication path [ Figure 1; and paragraphs 0013 and 0026 ];

forming a first policy-compliant message in accordance with the intermediate node policy [ i.e. send or distribute message data to the destination node based upon the number of intermediate nodes ] [ 110, Figure 3; and paragraphs 0013, and 0027 ].

Bernhardt does not specifically disclose the first policy-compliant message including a request for a destination node policy characterizing communication properties supported by the destination node.

Bradley discloses the first policy-compliant message including a request for a destination node policy characterizing communication properties supported by the destination node [ i.e. target service binding ] [ Figure 7A; and paragraphs 0142, and 0211 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Bernhardt and Bradley because the teaching of Bradley would providing means for multiple service providers to innovate and introduce new services that benefit both consumers and service providers without having to wait for or depend on a monolithic set of end-to-end standard [ Bradley, paragraph 0019 ].

8. As per claim 2, Bernhardt discloses transmitting the first policy-compliant message to the intermediate node [ i.e. select route and send message ] [ 108, 110, Figure 3; and paragraph 0027 ]. Bernhardt does not specifically disclose receiving the destination node policy; forming a second policy-compliant message in accordance with both the intermediate node policy and the destination node policy. Bradley discloses receiving the destination node policy [ i.e. response message ] [ Figure 7A; and paragraphs 0211 ]; forming a second policy-compliant message in accordance with both the intermediate node policy and the destination node policy [ i.e. service access point communicates request to service providing nodes ] [ Figures 7C and 7D; and paragraphs 0213-0215 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Bernhardt and Bradley because the teaching of Bradley would providing means for multiple service providers to innovate and introduce new services that benefit both consumers and service providers without having to wait for or depend on a monolithic set of end-to-end standard [ Bradley, paragraph 0019 ].

9. As per claim 3, Bradley discloses wherein the forming operation further comprises forming a first policy-compliant message including a source node policy characterizing

communication properties supported by the destination node [ i.e. target service binding ] [ Figure 7A; and paragraphs 0142, and 0211 ].

10. As per claim 4, Bradley discloses retrieving the destination node policy; forming a second policy-compliant message, the second policy-compliant message including an underlying message, the second policy-compliant message conforming to the destination node policy [ i.e. service access point communicates request to service providing nodes ] [ Figures 7C and 7D; and paragraphs 0213-0215 ]; forming a third policy-compliant message, the third policy-compliant message including the second policy-compliant message, the third policy-compliant message conforming to the intermediate node policy [ i.e. requests are routed through an intermediate node which relays the requests ] [ Figure 7E; and paragraphs 0216 and 0217 ].

11. As per claim 5, Bradley discloses determining whether the destination node policy specifies an additional intermediate node [ i.e. determine whether to dispatch a request to a known authorization service provider ] [ paragraph 0351 ].

12. As per claim 6, it is rejected for similar reasons as stated above in claim 5. Furthermore, Bradley discloses if the destination node policy specifies an additional intermediate node retrieving a policy from the additional intermediate node [ paragraph 0351 ].

13. As per claim 7, Bradley discloses determining whether the destination node policy specifies an additional intermediate node; if the destination node policy specifies an additional

intermediate node forming a third policy-compliant message in accordance with the intermediate node policy, the third policy-compliant message including a request for an additional intermediate node policy characterizing communication properties supported by the additional intermediate node [ Figure 7E; and paragraph 0216 and 0217 ].

14. As per claim 8, Bradley discloses determining whether the intermediate node policy is compatible with a source node policy characterizing communication properties supported by the source node [ paragraphs 0153 and 0161 ].

15. As per claim 9, Bradley discloses determining whether the intermediate node policy is compatible with a source node policy characterizing communication properties supported by the source node [ paragraphs 0153 and 0161 ], wherein the determining operation comprises receiving a notification from a service that the intermediate node policy is compatible with the source node policy [ paragraphs 0164 and 0343 ].

16. As per claim 10, Bernhardt discloses wherein the retrieving operation comprises incrementally receiving the intermediate node policy [ i.e. number of intermediate nodes ] [ paragraphs 0014 and 0015 ].

17. As per claim 11, Bradley discloses wherein the retrieving operation comprises receiving the intermediate node policy from a node other than the intermediate node [ i.e. UDDI registry ] [ paragraphs 0364 and 0433 ].



18. As per claim 12, Bernhardt discloses wherein the retrieving operation comprises reading the intermediate node policy from a cache memory at the source node [ i.e. store in route cache ] [ 56, Figure 5; and paragraphs 0014 and 0016 ].

19. As per claim 13, it is rejected for similar reasons as stated above in claims 1 and 2. Furthermore, Bernhardt discloses the intermediate node being between a source node and the destination node in a communication path [ i.e. nodes along the path ] [ Figure 1; and paragraph 0025 ]; applying the intermediate node policy and the destination node policy to an underlying message in order of the destination node policy followed by the intermediate node policy [ i.e. route rank ] [ 106, Figure 3; and paragraphs 0014 and 0016 ].

20. As per claim 14, it is rejected for similar reasons as stated above in claims 1-3.

21. As per claim 15, Bradley discloses selecting a policy expression from the intermediate node policy [ paragraphs 0127, 0238 and 0379 ].

22. As per claim 16, it is rejected for similar reasons as stated above in claim 8.

23. As per claim 17, it is rejected for similar reasons as stated above in claim 5.

24. As per claim 18, it is rejected for similar reasons as stated above in claim 6.

25. As per claim 19, Bernhardt discloses wherein the retrieving operation comprises forming a request message, the request message including a request for the destination node policy and conforming to the intermediate node policy [ i.e. select route based on traffic state of intermediate node ] [ Abstract; and paragraphs 0025 and 0027 ].

26. As per claim 20, Bradley discloses wherein the retrieving operation comprises retrieving one or more of the intermediate node policy and the destination node policy from a node other than the intermediate node, the destination node, and the source node [ i.e. UDDI registry ] [ paragraphs 0364 and 0433 ].

27. As per claim 21, Bernhardt discloses wherein the retrieving operation comprises requesting each of the intermediate node policy and the destination node policy in order of the intermediate node followed by the destination node [ Figure 1; and paragraphs 0014 and 0016 ].

28. As per claim 22, it is rejected for similar reasons as stated above in claim 10.

29. As per claim 23, it is rejected for similar reasons as stated above in claim 12.

30. As per claim 24, Bradley discloses determining whether a message from the intermediate node conforms to a source node policy characterizing communication properties supported by the source node [ i.e. match ] [ paragraphs 0357 and 0358 ].

31. As per claim 25, it is rejected for similar reasons as stated above in claim 1. Furthermore, Bradley discloses a source node policy having protocol parameters related to a source node [ paragraphs 0103, 0222 and 0223 ].

32. As per claim 26, it is rejected for similar reasons as stated above in claim 8.

33. As per claim 27, it is rejected for similar reasons as stated above in claim 15.

34. As per claim 28, Bradley discloses wherein the message generator further transmits a message to the intermediate node, the message including at least a portion of the source node policy [ paragraph 0207 ].

35. As per claim 29, it is rejected for similar reasons as stated above in claims 5 and 6.

36. As per claim 30, it is rejected for similar reasons as stated above in claim 15. Furthermore, Bradley discloses at least one relationship operator associated with the plurality of policy expressions [ paragraph 0224 ].

37. As per claim 31, Bradley discloses wherein the policy generator generates a usage attribute related to one of the plurality of policy expressions [ paragraphs 0133, and 0229 ].

38. As per claim 32, Bradley discloses wherein the source policy comprises one or more policy expressions specifying at least one of: a security protocol; a routing parameter; an encryption algorithm; an audit trail; a privacy parameter [ Abstract; and paragraph 0006 ].

39. As per claim 33, Bradley discloses wherein the source node policy comprises: a plurality of policy expressions specifying protocol parameters; one or more operators related to the plurality of policy expressions, the one or more operators specifying a relationship between the plurality of policy expressions [ paragraphs 0222-0224, 0379 ].

40. As per claim 35, it is rejected for similar reasons as stated above in claims 1, 4 and 25.

41. As per claim 36, it is rejected for similar reasons as stated above in claims 27 and 30.

42. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bernhardt et al. [ US Patent Application No 2005/0053007 ], in view of Bradley et al. [ US Patent Application No 2008/0056500 ], and further in view of Mitchell et al. [ US Patent Application No 2004/0117494 ].

43. As per claim 34, Bernhardt and Bradley do not specifically disclose wherein the source node policy comprises an input policy characterizing input protocol parameters and an output policy characterizing output protocol parameters. Mitchell discloses wherein the source node

policy comprises an input policy characterizing input protocol parameters and an output policy characterizing output protocol parameters [ i.e. protocol element for in channel and protocol element for out channel ] [ Figure 2; and paragraphs 0028 and 0029 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Bernhardt, Bradley and Mitchell because the teaching of Mitchell on input and output protocol elements would facilitate the dynamic initial configuration and later reconfiguration of communication channels for inputting data to pervasive devices [ Mitchell, paragraph 0002 ].

44. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dustin Nguyen/  
Primary Examiner, Art Unit 2154